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The water question

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The Water Question

Reply of

PRESIDENT TEVIS

OF

BAY CITES WATER CO.

TO

MR. CHICKERING

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REPLY OF PRESIDENT TEVIS TO MR. CHICKERING.

W. H. CHICKERING, ESQ.,

Attorney for the Contra Costa Water Company,

Oakland, California.

SIR:

There appeared in the Oakland newspapers of January 3, 1905, a communication, signed with your name, in which you address to me certain questions to which you may or may not have expected a reply.

As the questions were definitely framed, and concerned the matter of the proposed municipal water plant which the representatives of your city have selected as a suitable plant to be purchased by the citizens of Oakland, I, now the bond ordinance having finally passed, answer your questions in detail.

In prefacing my replies, however, I will say that your questions do not come to me in the aspect of a sincere request for information sought for proper purposes. Your "letter" was not sent to me; indeed, the first and only knowledge I have ever had of its existence was when my attention was called to its appearance in the Oakland newspapers. It was obviously issued for the purpose of influencing the people of Oakland to the advantage of your corporation client in the contest which it is now waging against them, and the questions contained in the letter were manifestly there with a view, and in the hope, of obtaining from me some statement which might be distorted in furtherance of that end.

The first six of your series of seventeen questions are directed to the titles upon which rest the properties which the Bay Cities Water Company is now offering to sell the City of Oakland. I will remark that those titles are perfect. They are founded upon most familiar law, upon which we have the written opinions of many leading lawyers of San Francisco. The officers of the City of Oakland have been advised of the titles and the muniments upon which they rest. I would say further that before the city need obligate itself to purchase the properties, the soundness of those titles must appear to the satisfaction of the attorneys of the City of Oakland. Further than this, our company remains obligated, not only to insure the validity of those titles, but also the quiet possession of the property itself; and to such end it stands ready to deposit whatever security may be required.

Titles to Bay Cities properties perfect.

Oakland need not commit herself to purchase until satisfied as to titles.

The questions which you present, with their answers, are as follows:

First—When did the Bay Cities Water Company acquire the rights it claims to the lands it proposes to convey to the City of Oakland?

ANSWER—We own the lands absolutely in fee simple, having acquired them by purchase at various intervals since

the incorporation of our company.

Second—When did the Bay Cities Water Company acquire the rights to the waters it proposes to convey to the City, and how were those rights acquired?

ANSWER—By the usual legal methods subsequent to the incorporation of our company.

Riparian rights not interfered with.

Third—At the time or times of such acquisition, or at any subsequent time, has it acquired, either by grant, condemnation, or in any way, the rights of riparian owners along the streams below the sites of its proposed dams?

ANSWER—It has not; no such rights are necessary. Riparian owners will not be interfered with.

Fourth—What at present becomes of the storm waters it proposes to impound?

ANSWER—They run to waste, into the Bay of San Francisco. We have not attempted to trace them further.

Fifth—Is it not true that these waters furnish the present supply for the Niles Cone, so termed? And does the Bay Cities Water Company claim rights superior to the rights of those who now take water from the artesian belt surrounding the Niles Cone?

ANSWER—The waters we take do not furnish the supply for the Niles Cone.

Niles cone water not interfered with.

Sixth—Has it obtained from all, or from any, of the people using such storm waters in these artesian belts, the right to impound the same?

ANSWER—It has not and requires no such right.

Not necessary that conduit cross Spring Valley lands.

Seventh—Must the wooden conduit it is proposed to use in transmitting the water from the reservoirs to the City of Oakland necessarily cross the lands of the Spring Valley Water Company in its course from the contemplated reservoirs to the City of Oakland?

ANSWER—It is not necessary that the conduit cross any lands of the Spring Valley Water Company.

Conduit will not pass through, under or near Spring Valley reservoir.

Eighth—Is it or is it not the fact that the wooden conduit for a distance of several miles is to be laid at the bottom of a reservoir intended to be constructed and filled with water by the Spring Valley Water Company?

ANSWER—Such is not a fact. The pipe line will not at any point be laid within the limits of any lands of the Spring Valley Water Company possible of being used as a reservoir.

Ninth—Has it acquired from that company the right to lay its wooden conduit along, over, upon, through or under any of the lands of the Spring Valley Water Company?

ANSWER—It has not.

Tenth—If it is in contemplation to lay its wooden conduit for a distance of several miles at the bottom of a reser-

voir of the Spring Valley Water Company, how are repairs to be made in event of a break in the wooden conduit?

ANSWER—We have no intention of laying any part of the wooden conduit within the limits of any Spring Valley reservoir.

Eleventh—Can the Bay Cities Water Company, as a private corporation, contemplating not the furnishing of water to a municipality, but the sale of its plant to such a municipality, condemn the right of way across the lands of another water company?

Condemnation of Spring Valley lands not necessary.

ANSWER—We do not contemplate any such condemnation proceedings. It is not necessary to cross lands of another water company.

Twelfth—What evidence has the Bay Cities Water Company not in existence at the time Mr. Desmond Fitzgerald condemned its scheme, to show that the quality of storm waters is not bad, as alleged by him, and that such waters only become potable by filtering or aerating?

ANSWER—Desmond Fitzgerald made no such allegations. He never suggested filtering and aeration for the storm waters To the contrary he says: "It has always been well established that in deep, well planned reservoirs, comparatively free from organic matter, there is a decided improvement in the quality of water, due to storage in an open reservoir, the opposite being true of ground or filtered water."

Purity of water unquestioned.

Mr. Fitzgerald made certain suggestions in respect of the plans as then before him concerning the protection of the waters from contamination. The recommendations made by him have been included in the new plan which is now before the people. These new plans have been passed upon by the board of engineers recently appointed on behalf of the city, who examined the physical features of the proposition from the standpoint of these plans, and they stated concerning the water as follows:

"This consideration (the geology) in connection with the fact that the watershed is so sparsely populated, PLACES THE WATER SUPPLY BEYOND CRITICISM; and its *crystal clearness* at the time of our visit bears practical evidence of its favorable surroundings."

Thirteenth—Is it, or is it not, the fact that only four days were occupied by the Board of Engineers recently appointed, upon the properties to be conveyed to the City of Oakland, in making actual examination of the physical features of the properties and in going over the eighty or more square miles of watershed claimed by the Bay Cities Water Company?

City's Engineers made more extended examination than did Fitzgerald.

ANSWER—It is not a fact. The members of that Board of Engineers were three times as long in the field and many

days longer in summing up their notes than was Desmond Fitzgerald.

City absolutely protected by bonds and securities offered by Bay Cities Water Co.

Fourteenth—Do you think the City of Oakland amply protected by a bond of $1,000,000 when it is proposed to pay to your Company $3,750,000 for a plant from which it may never be able to obtain water, unless each of the foregoing questions can be satisfactorily answered?

ANSWER—The City of Oakland will be made perfectly safe against any loss whatever through putting in this municipal water system. Whatever sum, or whatever bond, or whatever form of security may be considered necessary to that end will be provided. Let your qualms as a taxpayer quiet on that score. You will not be mulcted because of any failure on our part to deliver what we sell, and to insure it to the city free and clear of any difficulties which your client, or its associate in interest, the Spring Valley Water Company, or any one else can make for it.

Proposition that bonds be based on water plant alone illegal and absurd.

Fifteenth—Would you, as a man of wealth, invest your means in bonds secured alone by property which a company proposes to convey while another water company is already in the field?

ANSWER—This question has nothing to do with the Bay Cities proposition, but if I were to follow in the footsteps of your client, Mr. Dingee, who did this very thing when he entered the field with the Oakland Water Company in competition with the old Contra Costa Company, I would probably invest my means in such bonds.

Sixteenth—Did the Bay Cities Water Company receive from the Spring Valley Water Company a letter, dated September 24, 1903, with reference to the rights of the latter company to the waters claimed by your Company, and, if so, what response has been made thereto?

ANSWER—Yes; on that date Spring Valley Water Company sent us a communication informing us that it claimed the right to certain waters which are a small portion of our present contemplated supply to Oakland. No reply was made to this communication, as none was required, or, so far as we know, expected.

$28,000,000 saved to Oakland by acquisition of Bay Cities Water Co.'s plant.

Seventeenth—If, as stated by your Company in a recent communication to the Council, a profit of some $28,000,000 is to result to the City from the acquisition by the City of your plant, notwithstanding the competition of the Contra Costa Water Company, why is it that you and your associates, all moneyed men, do not complete the project and realize that vast sum for yourselves?

ANSWER—The said sum of $28,000,000 is the amount which the people of Oakland will save during the period of forty years through owning a municipal plant, figured upon the basis of the rates which your client is now charging, and

upon a normal increase of population of the City during that period. In other words, it your client succeeds in defeating this movement of the people to rid themselves of its domination, and can hold the people in its power during the ensuing forty years, it will have collected at the end of that time from them $22,000,000 more than they would have been obliged to pay for water if the forthcoming bond election had been carried. At the end of those forty years, also, they will still be paying your client the same rates as now, instead of only twenty per cent of those rates; whereas, if the bond election be carried and our works installed the municipal plant would at the end of the forty-year period be fully paid for and the rates of water would then be reduced 80% below the present rates. Moreover, the people of Oakland would then have a property belonging to the city worth vastly more than the $6,000,000 originally paid for it, instead of having built up for your client a property which it would probably regard as worth upwards of $30,000,000, and into which it would not meanwhile have put a dollar of outside money. It seems to me, in view of these facts, that any taxpayer who, with a clear understanding of the conditions, would go before his neighbors and fellow-citizens, and advise them to defeat our proposition, cannot justly complain if his zeal be attributed to partisan advocacy rather than to public spirit.

Bay Cities did not seek to sell to Oakland; Oakland sought Bay Cities.

Having thus, with such thoroughness as I can command answered each of the seventeen interrogatories which you were pleased to propound, I now, in like quest of information, and in order that the public may be apprised of the true facts of this controversy, beg to address to you certain questions, and urge response thereto.

These questions, by singular coincidence, are seventeen in number. I may preface them by saying that our attitude at the beginning of this contest was that of a seller of a water plant to the City of Oakland. Two years had been spent by us in negotiating with the officials of that city over the sale of this plant, while they on their side had been acting in response to the specific demands of the practically unanimous public sentiment which had elected them to office. We were content to offer our plant upon its merits and withhold ourselves wholly from otherwise influencing the minds of the people towards its acceptance. It was no purpose of ours to enter for a moment the arena of controversy and by any means or through any process seek to further the purchasing of our property. At the beginning of this matter it was the people who asked for our proposals; it was not we who had sought them. Having made our proposition, we were content to leave the result with them.

While the minds of the people were yet unclouded by the organized endeavor which your client has since made to influence them to its end, there was submitted to their con-

sideration as a referendum, the proposition which our company had made, along with another. The result of that canvass showed a poll of 5,065 votes out of a total of 7,135, or more than the necessary two-thirds required by law to accept our proposition, had such been a legal vote. Indeed, as an evidence of how slightly the plant of your client is favored or desired by the people of Oakland, there were out of the total but 57 persons who expressed themselves definitely in favor of acquiring it, and but 367 who were opposed to either of the plans submitted. The total of the two last may, I believe, be taken to represent the aggregate of your Oakland stockholders, bondholders, employes, and those who are dependent upon your establishment for favors.

Convinced, therefore, that the people of Oakland desired our plant, we were still completely content to withhold ourselves from any part in the question of the final vote upon the issuance of the bonds for its purchase. But your client has created a conflict, and through its attorney, yourself, I am specifically, and by name, and in the most direct, comprehensive and public way, drawn into the fight. I am reluctant to engage in a contest, but, being challenged, under conditions which demand a defense, I do not shun the battle.

I shall not stand idly by and see our titles slandered, the purity of our water denied, the engineering features of our proposed construction denounced, the people falsely told that the installation of our plant will increase their municipal taxation, or with equal falsity advised that the trumped-up litigation threatened by your client and its associate in this matter, the Spring Valley Water Company, will prevent us from constructing the plant if the bonds are voted, or will interfere with delivery of water to Oakland at the completion thereof—and our entire project stigmatized as "costly," "chimerical" and "rotten." I shall not sit idly by, I say, and witness the perpetration by your client of these assaults upon our company and the people of Oakland. But I shall do what I consider the conditions require to counteract the wrong impression which your client is now industriously seeking to produce upon the public mind of Oakland.

Let me then commence by asking you the following question:

Taxation not increased.

First—Why does your client tell the people that the putting in of the Bay Cities plant would increase city taxation? Do you and your client seriously mean to contend that putting in the Bay Cities plant would increase taxation?

The putting in of the Bay Cities plant will reduce taxation, not increase it. By putting in the Bay Cities plant, the city would save at once over $71,300.00 in municipal charges which it now pays your client for city supply. This sum is annually increasing with the growth of the city and the enlargement of its needs for water. Within ten years it will

have increased to $100,000.00 per annum; a sum equal to the total operating expenses of the plant. Nor does the city now get anything like the quantity of water necessary to sprinkle its streets, or even keep its macadamized streets in repair, which expensive pavements it is notorious are deteriorating for lack of sufficient water in season to maintain them in condition. As for parks, they are poorly watered, and one or more of them, because of the cost of water, are not irrigated at all.

With the municipal plant, the city would have all the water it needs for parks, streets, schools, fire hydrants and whatever else, which it is safe to say would be over twice the amount it now consumes, and it would save the $71,300.00 which it now pays to your client.

Litigation with Contra Costa increases taxation.

Further than this: The city has, during the last four years and a half, from and including the year ending June 30, 1901, spent $50,227.85 in litigating with your client over the subject of water rates. This litigation is perennial, and will go on as long as your corporation remains in the field as a vendor of water for domestic consumption. It is an incident of operation of the water system by your particular private enterprise. If the people would cease from troubling over water rates while your client is their sole source of service, they must pay for that peace—and they must pay a price corelative in magnitude to that which, in consideration of peace, a conqueror demands of the population of a subjugated territory: they must pay whatever rates your client may feel it to its interests to impose. The people will not submit to this, even if your client remains in the field, so the cost of litigation against your company should properly be considered a continuous annual source of outlay, and so figured in the estimates.

City pays Contra Costa's legal expenses as well as its own.

The painful part about this feature of litigation is that the people pay all costs and attorney's fees of both your side and their own. Your client's cost of litigation and lawyers in its suits against the city during the like period of four and one-half years has been the enormous figure of $158,468.99; *over three times the cost of the same litigation and attorney's fees on part of the city.* This large sum you have charged up in your bill of expenses and it has been figured in the basis of rates which your client has been enabled to declare against the water consumers of the city. It is unnecessary to say that under municipal ownership this sort of thing will cease.

If the municipal plant started in with all the people taking water from it, the water rates could be at once reduced 24 1-3 per cent, *and the existing tax rates would in no manner be affected.*

In this connection I should remark that the people of Oakland have not started into this matter of providing themselves with a municipal water plant through any kindly feel-

ings towards your client, or through any disposition to temporize with it, or to share with it the business of furnishing water to themselves. The specific purpose which they had in view in arranging to put in a plant of their own, is to get rid of your corporation and its plant. They wish to get rid of it for many reasons: the rates are intolerably high, and it has so adjusted its affairs that they cannot be lowered; it is in constant war with the people in the Courts over rates, causing large sums of expense, both to themselves and your corporation, *both of which costs the people must pay* and it is a constant menace to the efficiency of the legislative and administrative arms of the city government. Influences of this sort tend to lower the standard of moral character pervading the municipal government, to degrade politics, and ofttimes unjustly to subject those elected to office to the odium of popular suspicion. For these and other reasons they have decided that the only relief possible is to get rid of your client entirely.

Contra Costa a menace to efficiency of city government.

For a long time they had hoped to purchase its plant, and by acquiring its property eliminate it from the field. They worked assiduously with your client's management for months and months, reaching into years, in the hope that it would be induced to sell, and that some reasonable valuation of the property could be agreed upon. In the person of Desmond Fitzgerald they procured an engineer of repute to appraise the value of those properties, who found them to be worth $2,689,185.00. The people, through their Mayor, were willing to allow you a profit of nearly a million dollars and would have purchased your plant at $3,500,000.00; but you chose to consider this figure preposterous and refused to treat further upon the subject.

City's futile efforts to buy Contra Costa plant.

There is no escape for the people through dealing with you; there is but one resource left, that is for them to put in a plant of their own. When they concluded to do this they did not expect their proceedings to that end to move on without such opposition as your client and its coterie of interests might be able to make. It was to be expected that 57 people, who, by their vote at the referendum, had shown themselves interested in your properties and some of the 367 who had shown their indifference would write letters to newspapers, issue circulars and have them distributed, and by whatever means possible try to generate an apparent popular sentiment against the purchase of the plant which the people had selected. They well recognize also that your client would create a literary bureau, and that through such instrument it would disseminate sophistical arguments against the advantage to the people of the proposed municipal plant, and against the advisability of its installation.

Taxes decreased by a municipal plant.

One of these sophistries is that the tax rate would be enormously raised through your client's competition with the municipal plant. I shall show that it would not. Let the

water be furnished the people entirely free, and the tax rate would be but $2.00, or 74 cents above the rate now paid, which present rate is $1.26 on the $100 of valuation.

With all the people taking water from the city plant and the tax rate remaining as it now is, undisturbed, there would at once be a reduction in water rates of 24 1-3 per cent. This fact becomes apparent upon reference to the following statement:

Collections of Contra Costa Water Co. from private consumers in Oakland, and from City of Oakland for 1904		$576,626 37	
Sum paid to C. C. W. Co. by City for public supply	$ 71,300 00	71,300 00	
Amount collected from private consumers in Oakland by C. C.W. Co. in 1904			$505,326 37
First year's costs on Municipal Plant			
Interest on $5,557,500.00 Bonds at 4%	$222,300 00		
(When the plant starts into operation there will have been redeemed $142,500 00 of the bonds)			
Sinking Fund for Bond Redemption	142,500 00		
Operation of Plant	*100,000 00		
TOTAL		$464,800 00	
Sum paid to C. C. W. Co. by City of Oakland for public supply, which amount may be transferred from Tax Fund to Water Fund without changing present tax rate	$ 71,300 00		
Average sum annually paid by the City during the last 4½ years as expenses of water rate litigation with C. C.W. Co., and which sum may be transferred from Tax Fund to Water Fund without changing present tax rate	11,161 11		
		$ 82,461 11	
The difference representing the sum which must be raised from water rates to private consumers			$382,338 89
Amount collected from private consumers in Oakland by C. C. W. Co., in 1904 (See above)		505,326 37	
Reduction of amount to be paid by private consumers			$122,987 48

This reduction of $122,987.48 is equivalent to 24 1-3 per cent of $505,326 37, *or the rate to private consumers during the first year's operation of the municipal plant would be* **24 1-3** PER CENT *less than that collected by the Contra Costa Water Company during the year* 1904, WITHOUT INTERFERING WITH EXISTING TAX RATES IN ANY MANNER WHATEVER.

In addition the city will have acquired a tangible clear asset amounting to $142,500.00, which is the annual instalment of the sinking fund for bond redemption. *Taking this into consideration* THE REAL NET GAIN TO THE PEOPLE OF OAKLAND *is* $122,987.48, *plus* $142,500.00, *or* $265,487.48, *which is* **46%** *of the amount collected by the Contra Costa Water Company from private consumers and the City of Oakland in* 1904.

*This figure represents the actual cost of operations (allowing the liberal sum of $25,000 for administrative expenses) which the plant would incur, with no allowance made for repairs or extensions. As the plant would be new, there would be no repairs or extensions to speak of, during the first three years after operations began. Following this there would be some expense through both causes. This, however, would not increase the water rates, nor prevent them from continuing to fall, as there would be a saving each year in interest paid upon the successive redemptions of the bonded indebtedness, which would much more than offset the cost of extensions and repairs to the system.

Municipal plant will drive Contra Costa from the field.

But your client declares that it will be a competitor in the field against the municipal plant and that such plant shall not get all the water consumers. On the contrary it is demonstrable that *not one taxpayer will take water from your plant*, unless such taxpayer be some person who has some special interest in the company, is willing to donate a large part of his money to it, and whose interests are not in common with his fellow water consumers; even this person would not patronize it long, for your client's Oakland plant must very shortly thereafter go out of existence.

And the reason is very simple: The city plant will start in furnishing water at cost. That cost will be 24⅓% below the water rates of 1904. Your client will never offer water to the people at a less rate than the people will offer it to themselves through their city plant. Whatever fall you make in rates, the rates of the city plant will fall to meet it. If you force the people to furnish water to themselves at less than cost they will do so, making up the difference out of general taxation.

Taxes reduced.

The appended tables, based upon water being furnished by the city plant at present rates, brings out the fact heretofore stated, that as soon as a deficit in the municipal water plant fund shall appear, and said plant begin to pinch upon taxation, the taxpaying water consumers, who may be taking from your plant would, in defense of their own pockets, leave you at once and rush to the municipal plant. The truth is that they will not wait for that point to be reached. They will leave your plant at present rates and go to the municipal plant, *in order to get a reduction of taxation.* This reduction also appears by the table as follows:

Table I.—ON BASIS OF CONTRA COSTA WATER RATES FOR 1904

Percentage of water consumption furnished by Municipal Plant to Private Consumers.	EARNINGS from water sold. PRIVATE + CITY = TOTAL	PROFITS and SAVING of Municipal Plant affecting Tax Rate.	DEFICIT to be made good by taxation.	TAX RATES	Reduction of present rate or increase over present rate necessary to cover deficit.
100	$505,326.37 -|- 71,300 00 = $576,626.37	$122,987.47	None	1.017	.243 reduction
90	454,793.73 -|- 71,300 00 = $526,093.73	72,454.83	None	1.259	.142 reduction
80	404,261.09 -|- 71,300.00 = $475,561.09	21,922.19	None	1.218	.042 reduction
75⅔	382,338.90 -|- 71,300.00 = $453,638.90	None	None	1.26 (Pres. Rate)	None
70	353,728.46 -|- 71,300.00 = $425,028.46	None	$28,610.44	1.315	.055 increase
60	303,195.82 -|- 71,300.00 = $374,495.82	None	79,143.08	1.413	.153 increase
50	252,663.19 -|- 71,300.00 = $323,963.19	None	129,675.71	1.411	.251 increase
40	202,130.55 -|- 71,300.00 = $273,430.55	None	180,208.35	1.508	.348 increase
30	151,597.91 -|- 71,300.00 = $222,897.91	None	230,740.99	1.606	.446 increase
20	101,065.28 -|- 71,300.00 = $172,365.28	None	281;273.62	1.704	.544 increase
10	50,532.64 -|- 71,300.00 = $121,832.64	None	331,806.26	1.802	.642 increase
0 Free Water to Private Consumers.	0 -|- 71,300.00 = $71,300.00	None	382,338.90	2.00	.74 increase

Should the proportion of city plant customers fall below 75⅔% of the total number of water consumers, then a deficit would begin to appear in the water fund which would have to be met through the tax rates. This deficit would bear equally upon the consumers of both plants, and would mark the point where the patron of the Contra Costa plant would have to pay not only as much money for his water as would be paid by the patrons of the city plant, but added to this a *penalty collected through his tax rates* because of his refusal to take water from the city plant.

In other words, when the city plant is in, there will be a given quantity of water for each and every consumer in the city, for which given quantity he must pay, either through paying water rates, or tax rates. If he allows his share of the water to run into the sea and chooses to take that of the Contra Costa Company and pay for it, he must also pay for his share of the water which he has thus permitted to run to waste. Under such conditions he wastes in two directions: he lets his municipal water go to waste, and he wastes his money by paying it to the Contra Costa for water while his own water is going to waste.

The question is: Will any one do this? My answer is that not one water consumer in Oakland will do it. To the contrary, he will take water from the city plant not only to keep from increasing his taxation, but he will do so to get *the benefit of a reduction in taxation*, if the existing Contra Costa rates be those upon which the city plant begins to furnish water.

But I have said that my opinion is that in practice, when the Council determines upon the rates the city will charge for water, it will let the tax rates remain as they are, making no reduction in them, but begin to furnish water at a 24⅓ per cent reduction from the present rates, which rates so reached, would, with all the consumers supplied from the city plant, yield exactly the cost of the water. The table based upon rates yielding the actual cost of the municipal water to all the people is as follows:

Table II. — ON BASIS OF 24⅓% CUT IN PRESENT WATER RATES TO PRIVATE CONSUMERS STARTING WITH PRESENT TAX RATES.

Percentage of water consumption furnished by municipal plant to private consumers.	EARNINGS from water sold PRIVATE + CITY = TOTAL	DEFICIT to be made good by taxation.	TAX RATE	INCREASE over present tax rate to cover deficit.
100	$382,338 90 -|- 71,300.00 $453,638 90	None	1.26 (Pres. Rate)	None
90	344,105 01 -|- 71,300.00 $415,405 01	$38,233 89	1.334	.074
80	305,871 12 -|- 71,300.00 $377,171 12	76,467 78	1.408	.148
70	267,637 23 -|- 71,300.00 $338,937 23	114,701 67	1.482	.222
60	229,403 34 -|- 71,300.00 $300,703 34	152,935 56	1.556	.296
50	191,169 45 -|- 71,300 00 $262,469 45	191,169.45	1.63	.37
40	152,935 56 -|- 71,300.00 $224,235.56	229,403 34	1.704	.444
30	114,701 67 -|- 71,300.00 $186,001 67	267,637 23	1.778	.518
20	76,467.78 -|- 71,300.00 $147,767.78	305,871 12	1.852	.592
10	38,233 89 -|- 71,300.00 $109,533 89	344,105 01	1.926	.666
0	0 -|- 71,300.00 $71,300.00	382,338 89	2.00	.74

The percentages in this column from 100% down are purely theoretical, and could never occur in practice; for the reason that, as stated above, immediately a deficit began to appear in the water fund, the taxpayers, through whom all water is consumed, would, in order to hold down taxation, immediately leave the Contra Costa and go over to the city plant. The percentages, however, with the calculations based upon them, are appended as a matter of theory and curiosity.

Contra Costa could not exist in competition with municipal plant.

It is useless to further pursue the inquiry through such tables as above to ascertain what might be the condition with your client cutting 40% and getting this or that percentage of the consumers, or its cutting 50% or 60%, or whatever other per cent, and getting one or another percentage of the consumers; suffice it to say, that your company could not make them and exist. A condition even of free water would not be without precedent in California. The City of Monrovia in Southern California had it for years and found it of immense advantage. The water rate payers are all tax payers. This statement holds good even in the case of tenants who, in fact, pay water rent for their landlords. They would not patronize your client, for the money they thus paid would have to be paid over again by their landlords to the city in taxation, and would, of course, be charged back again to the tenants, in increased rent. The tenant is interested in reducing his rent, through lessening taxation, rather than raising his rent through increasing taxation.

Tenant benefited by municipal plant.

From this explanation it must be clear to you, and if not to you, it will be clear to the people of Oakland, that with the city plant in existence you would be absolutely powerless as a competitor against the city plant. Your functions as a water carrier for Oakland would thereupon cease—you must then forthwith close your doors to business in Oakland.

We have thus shown that the municipal plant *in operation* would not raise tax rates one dollar unless it reduced water rates one dollar, and this reduction being *below* the standard of 24 1-3 less than your present rates. That standard of reduction below your present rates would be increased every year. As each installment of the bonded debt is paid off, amounting to $142,500 per year, there is thus much less interest-bearing debt outstanding. Four per cent on $142,500 is $5,700.00; so the year following the putting in of the city plant we would pay $5,700.00 less interest on the bonds, which credit would redound to the benefit of the consumers by allowing them a further reduction of about 1% from your existing water rates. The second year, therefore, the 24 1-3 % reduction would be increased to 25 1-3%; the third year it would be 26 1-3%; the fourth year it would be 27 1-3%; the fifth year it would be 28 1-3%; the tenth year it would be 33 1-3%. And so on it would go, the water rates getting

less and less each year, until the plant was entirely paid for, when a large additional reduction would occur through not having further to provide the bond installment. This would leave the expenses of the municipal plant the cost of operating it solely, which would be about 80% less than your present water rates.

The above percentages are based on the present population of Oakland and if allowance is made for the prospective increase the showing will be very much more favorable to the City of Oakland.

Not true that people must pay $1,110,650 before they get water.

Two—Why do your client's writers persistently state to the public that the people of Oakland shall have paid in "taxes for bond interest alone $690,000" and "also $420,656 sinking fund, or a total of $1,110,650 before they get any water?" Do not you, your client and its writers know that such statements are incorrect?

To prove their error let us take a hypothetical case. In this connection I may say that all of our computations with regard to this matter must necessarily be based upon hypotheses, and the case which I select is chosen arbitrarily for the purpose of illustrating merely the proper method of computation. Let us then assume that it takes three years to construct the municipal plant and that construction begins on June 1, 1905, let us further assume that the cost of construction will be paid for as the work progresses, and that instead of many payments being made at intervals throughout the period of construction, there will be three issuances of installments of the bonds, each issuance at the end of a year and each one-third of the total bond issue: Each payment would, therefore, be through the issuance of $1,900,000 of bonds. Of the bonds issued June 1, 1906, there would on June 1, 1907, fall due $76,000 interest and $47,500 would have to be provided for redemption of one-fortieth of the quantity of bonds outstanding, making a total sum to be provided for from taxation of $123,500. At the same time there is issued another $1,900,000 of the bonds. On June first of the next year—1908—there would be payable interest on $1,852,500, plus $1,900,000 = $3,752,500, or $150,100; also one-fortieth of the sum of the bonds issued, or $95,000, making a total for that year to be raised from taxation of $245,100. At the same time there would be issued the remaining $1,900,000 of bonds, and the plant be completed and the water turned in.

To recapitulate the above we have:

June 1, 1905—Work started.....
June 1, 1906, Bonds issued for..... $1,900,000
June 1, 1907, Bonds issued for..... 1,900,000

And payments as follows:

Interest on $1,900,000 at 4%		$ 76,000
1-40 for Redemption Fund		47,500
Total		$ 123,500
June 1, 1908, Bonds issued for	$1,900,000	
Interest on	3,752,500	150,100
1-40 Redemption Fund		95,000
Total		$ 245.100
Grand Total		$ 368,600

$123,500 would raise the tax rate for the year .239.

$245,100 would raise the tax rate .475.

So that instead of there being $1,110,650 to be paid out of taxation on account of the water plant during the three years before water becomes distributable, as your client through its writers erroneously states, there would be but $368,600, an amount which, being apportioned between the two years, would occasion but a comparatively small raise in taxation. The year following, the water plant being in operation, the plant would take care of its own expenses, would not have to call upon the tax lists any further, and the people would start off with water at 24⅓% reduction, which would, in three years following, more than return them in saving upon their water bills the moneys which they had advanced through their taxes to bring the municipal plant into existence.

Three—Why does your client, through its writers, and others, assert that such litigation as your corporation and its associate the Spring Valley Water Company, might bring against the Bay Cities Water Company, would tie up the building of the plant and prevent the delivery of our waters to Oakland until the conclusion of the litigation—which, they say, would drag along for years—when both you, your client, its writers and the Spring Valley Water Company must know that such statements are absurd?

Litigation will not prevent or delay delivery of water.

Neither your corporation, the Spring Valley, nor any one else could do any such thing. If suits were brought against us, as is threatened, and we are at a loss to know or imagine upon what tenable ground either or any of you hope to get into court if any such litigation occurs, it would not stop construction an hour, nor hold back water a day, and we have not the slightest fear of the outcome. For ourselves, however, we do not believe that such suits will be brought, at least, with any idea of ultimate success on your part.

Fourth—Do you or your client really believe that the people of Oakland do not see through your client's scheme which its writers constantly propose of making the municipal bonds rest upon the water plant alone?

Do you not know that the people realize that such is merely a ruse on your part to defeat the bond issue? That there is no law making such a thing possible—why do your writers ask the question?

Fifth—Your client's writers are constantly making the people who sign their "interviews" say that our proposition is "too vague:" What does your client mean by that? or is the phrase itself intended to be "vague" and convey no meaning, but merely an expression derogatory to our project?

Bay Cities proposition a direct one.

For our part we think our project is exceedingly defined and direct. We own the land, we own the waters. We know what we own and what can be done with it. The first half of this statement comprehends results of a mass of work of many lawyers; the latter half the charts and figures of many engineers. As a result of the work and opinion of these engineers and lawyers the Bay Cities Water Company has invested many hundreds of thousands of dollars in the properties which it has offered to sell the City of Oakland. To our minds language does not admit of more direct, explicit and comprehensive statements than we have made, or that is embodied in our proposition, and if you can really find anything vague in what we offer, we should be glad to clear your mind upon it.

Bay Cities WaterCompany guarantee complete plant for proposed amount.

Sixth—Why does your client, through its writers, state that the cost of the Bay Cities plant will be largely in excess of the amount covered by the proposed bond issue?

If you mean that the expense of constructing the plant will be largely in excess of the amount of the bonds, we say that we will construct the plant for that amount, and give bonds in satisfactory amount to substantiate our undertaking.

Seventh—Why does your client have its writers prepare, and cause to be printed in the San Francisco and Oakland newspapers, such misleading articles as have recently appeared attacking the Bay Cities proposition? Let me cite a few of the misstatements with which they abound:

Misstatements of Contra Costa's advocates.

It is stated that "The Oakland Council, by asking the people to vote upon themselves a debt of $5,700,000 to buy a water plant (Bay Cities) is asking them to pay a tax during the period of construction, without any return at all, of $1,110,650." This statement is false, utterly and absolutely, as shown above.

It is stated that "The law requires the bonds to be sold in a lump:" This statement is false; they could not be so sold under the law.

It is stated that "Trying to get a municipal plant while leaving a competitor in the field everywhere results in loss and waste." This statement is false in toto. It nowhere results or ever has resulted in loss and waste, excepting to the private plant. Vallejo and Santa Rosa are instances in point in this state.

It is stated that "in Europe the law requires that all private plants shall be bought before entering upon municipal ownerships." There is no such law anywhere in Europe, so far as I know, and I challenge your writer to produce such law. It is true, however, that no European government would bother with putting in a municipal plant, while a private plant existed in the field. If your plant were in a European community, the method of the government in dealing with you would be very different from what it is in Oakland. Having concluded to put in its own waterworks, the government would send its Desmond Fitzgerald to appraise the value of your plant. Finding it to be worth $2,689,185, that sum would be deposited, payable to you on demand by the Royal or Imperial Treasurer. The government would then proceed to take over your plant. Let your client, if it dare, acquire a literary bureau, paid interviewers, political corps, subsidized newspapers and all the rest of its equipment and paraphernalia for affecting public opinion to its ends and try such a thing on a European community. Why, no sooner would its first publication go forth, redundant with its fabrications and false colorings, than your establishment would be surrounded by a detachment of "*gens d'armes*" and the whole outfit of you, president, lawyers, writers, publishers and politicians would be lined up and marched off to the *calaboose*. You had better instruct your writers to "let up" on their European comparisons in their future articles.

Eight—As a taxpayer, distressed through the fear of having to pay a few farthings of increased taxation for the two years while the city plant is being built, then get it all back through reduced water rates during the succeeding two years, with further reduction in rates from that on—as such a taxpayer, what do *you* think of the proposition of paying your client its price of $8,000,000 for its 10,000,000 gallon plant, then immediately thereafter forced to buy additional water from elsewhere (for the Contra Costa is now furnishing its full limit of supply) and to pay therefor the price which the Bay Cities asks, $3,750,000 (for it could not be had for less); making in all a total cost of at least $11,750,000. Let me ask you what do you think of that for a bond issue, and how does that strike you as a taxpayer, and as such how would it affect your tax schedule?

City cannot make contract until people vote bonds.

Ninth—Your client through its writers is repeatedly telling the people that they do not know what they are going to vote bonds upon, because they are not permitted to see the contract which it is proposed shall be entered into between the city and the Bay Cities Water Company. Why does your client do that, when it knows it is not possible to enter into any contract until the people have, by their votes, authorized the Mayor and City Council to make one?

Your client is seeking to confuse the public mind by

substituting *contract* for *proposition*. The people are informed upon what they are voting by reference to our *proposition* to them, now on file with the City Council. That proposition is elaborately presented, being recited with great explicitness, the entire aggregate of the properties to be sold fully shown, many of the features being illustrated with charts and tables. It has all been printed in the public press of Oakland, and to present it herewith would require extended space. Briefly, however, it is to sell to the city in fee simple about 8,000 acres of land, together with water rights to a minimum of 20,000,000 gallons of water per day in the driest year. In ordinary years there would be upwards of 25,000,000 gallons per day yielded by the properties. To erect dams and create reservoirs for impounding this water, all of which shall belong to the city, to build 51 miles of wood stave pipe line and bring that water to the charter line of Oakland, where it may be distributed to the people through the new distributing service which the city will build, unless, as is suggested by Mr. Mott, the distributing system of your client can be bought at a reasonable figure, which would make the spending of the entire amount needful to build a new distributing system unnecessary.

Bay Cities proposition perfectly clear.

City to own plant and water supply.

In respect to the matter of the contract, let me here state that the Bay Cities Company is ready at any and all times within the period fixed by our communication to the Council to enter into a contract satisfactory to the city, whenever the city on its part is ready to contract with us. The getting up of the contract is a matter of work for engineers and lawyers, and the people's representatives, the Mayor, City Council, City Attorney and City Engineer, can be trusted to take care of the city's interest in that behalf.

Tenth—Why does your client through its writers repeatedly complain about the wood stave pipe line in which it is proposed to bring the waters of the municipal plant to Oakland, when your client knows, and its writers should know, that engineers agree, and engineering works recognize, that for carrying water under pressure an iron hooped wood stave pipe is the best pipe for the purpose that exists?

I will mention the following as specimens of the misstatements which your client is using to prejudice the public mind upon this feature of the proposed construction. I will cite only two, though I could enumerate many more.

First—That "Desmond Fitzgerald's report condemns the conveyance of water through a wood pipe as insufferable." The statement is false. Desmond Fitzgerald did not condemn conveying the water through the wood pipe at all. He objected to the use of wood stave construction in the force main leading from the pumps. Such force main is not now included in the plans before the Council. The only objector to the wood pipe is a certain one of your writers, whose name I shall not mention in these pages.

Second—"The friction of water rushing through a wooden pipe under such a pressure as it will bear wears away the wood. The wood fibre planed off by the friction will reach us in our drinking water, and while we are drinking up the wood of which the pipe is made, it will get thinner and begin to break."

The statement is false and absurd. It is a peculiarity of wood pipes carrying water under pressure, that their inside remains smooth, and does not form tubercles, as do iron or steel pipes. After the water is turned in the pipe goes through a sort of sweating or saturating process, and thereupon immediately begins to form a skin coating upon its inside. The running water moves upon this skin, and does not touch the wood at all. The skin becomes slightly thicker and tougher as years go by, but the wood within does not change. How long a wood pipe will last is not known, but London had 400 miles of it in use for 218 years, and during recent reconstruction it was found to be quite sound. Although the wood practically does not deteriorate, the bands do, and after the lapse of many years must be replaced.

Wood-stave pipe the very best conduit for water.

Eleventh—Your client is supplying the cities of Berkeley and Alameda from the same sources from which it now takes water for Oakland. Two fires of recent occurrence in Berkeley, one the Town Hall, the other a large furniture factory, showed a failure of water in your client's supply pipes, so that the properties were destroyed. The factory is now suing your client for damages for loss of the property because of its failure to furnish water to extinguish the fire. This shows your water resources are exhausted. With all the purchasable water lands about the bay *corraled* by your confrere, the Spring Valley Water Company, to keep out competition from its business of supplying San Francisco, where would you find additional water lands? And if found, how much would you increase the cost of water to the people of Oakland by reason of your expense incurred in acquiring such new sources, and extracting water therefrom?

Contra Costa supply insufficient to guarantee fire protection.

Twelfth—As a citizen and taxpayer having investigated the question of water supply for municipalities, we assume, in your unbiased and unprejudiced research, that you know how many cities in the United States having the same population of Oakland, or larger, own their own water works, and, if so, will you kindly give this information to the people of Oakland? Also state what cities the size of Oakland, or larger, in the United States, do not own their own water works.

Thirteenth—Is it not a fact that the Contra Costa Water Company furnishes water to Berkeley and Alameda at a much less rate than they charge the citizens of Oakland; and is it not a fact that they charge the municipality of Berkeley and Alameda for the water used by the municipalities a much less

rate than they charge the City of Oakland for water for the same purposes? If your answer is in the affirmative, will you kindly explain to the people of Oakland why this should be?

Fourteenth—If your client defeats the bond proposition now pending, and is thereafter called upon by the city to state a price at which it would sell its plant, would it not name a much more prohibitive figure than even its present price? And if condemnation proceedings were taken by the city against that plant, you having your $7,000,000 valuation as *res adjudicate*, would you not expect to be as successful in getting your demands as you have heretofore been?

Mechanic, Laborer, Merchant and Banker benefited financially by building Bay Cities plant.

Fifteenth—Is it not a fact that the expenditures in Oakland of some millions of the $5,700,000 raised from sale of bonds would GREATLY BENEFIT LOCAL LABOR CONDITIONS, GIVING EMPLOYMENT TO POSSIBLY A THOUSAND RESIDENTS OF OAKLAND, AFFORDING A MARKET FOR MUCH OAKLAND MATERIAL, and the money finally finding its way into the mercantile community, produce activities all along the line? And this money being new funds coming into the city from outside, would that not be better for the people of the city than the presence of your company, which takes large sums of money from them monthly and sends it away?

Sixteenth—Do you not appreciate the fact that the installation by the city of a new modern plant, with an ample supply of pure water for fifty years—abundance of water for all purposes, streets, parks, fires and else, delivering water at one-quarter the rates now paid, with the rates yearly decreasing, with the consciousness of your plant being out of the field, and out of politics, that this would have a decidedly elevating effect upon the values of property in Oakland, that the career of the city as a factory center would go rapidly on, with the number of such establishments quickly increasing, and that all activities would be immensely stimulated?

Mr. Chickering's real position on the water question.

Seventeenth—On my desk beside me lies a printed circular written by you, entitled "BAY CITIES SCHEME COSTLY AND CHIMERICAL," a copy of which circular was mailed to each of the voters of Oakland. In this circular you pretend to address the people of Oakland as a citizen and a taxpayer, revealing therein no relation to the Company, which is now admittedly your client, and you assert that you had not established this relation of attorney and client at the time you started in to write the circular. You are undoubtedly sincere in making this statement, but all your friends believe that you became sadly mixed as to dates, and have entirely forgotten the date of your employment. Won't you please ask some of your friends about it and tell the people of Oakland the result of your inquiries?

In that circular you find extensive faults with the Bay Cities project. You roundly denounce it as an absurd prop-

osition, without foundation, impracticable, and much else, and, as a taxpayer, a water consumer, a resident of Oakland and a citizen "moved by civic pride," protest against such a scheme being "*saddled on to the municipality of Oakland.*"

Further over on my desk lies a mass of documents, many of them written by yourself, showing that in the year 1897 you were associated with E. G. Wheeler, at present largely interested in and Secretary of the Bay Cities Water Company, and that you were aware at that time that Mr. Wheeler was moving in the enterprises, and acquiring the properties out of which the Bay Cities Water Company grew. That you operated with him in the capacity of confidential *agent,* FRIEND and *attorney.* That when it came to organizing the Bay Cities Water Company in 1902, which was instituted for the purpose, among others, of furnishing Oakland with water, you advised E. G. Wheeler with regard to various matters connected therewith, and among other functions you performed was that of becoming trustee for a number of the stockholders of the Bay Cities Water Company, *which trusteeship you continue to hold.* That in the fall of 1903 your relations with him on this water matter had lasted several years, and that he paid you such fee as you demanded for such of your services as were performed in your capacity of attorney—as evidenced by a receipted bill dated December 1st, 1903, to which your firm's name is attached, signed in your own handwriting. After, therefore, having continued with this water matter for years, (BEING NOW A TRUSTEE FOR SOME OF OUR STOCKHOLDERS LIVING BEYOND THE STATE) the very purpose of it being to supply with water these cities of the bay, among which was Oakland, you now come out as a citizen and a taxpayer "*moved by civic pride*", TO SAY NOTHING OF BEING THE PAID ATTORNEY OF THE CONTRA COSTA WATER COMPANY, and assail the work which you aided in bringing about. A while ago, you would, as a "citizen and taxpayer" have strenuously advised the people to acquire water from the Bay Cities properties. Now, your feelings have been revolutionized through a change in your interests, you go forth in your aspect as a taxpayer and characterize as "chimerical" properties with which you were formerly related. What kind of lawyerism or taxpayerism is this? Will you give me your idea of the moral estimate of such actions?

Will you state to the Oakland public how many shares of stock of the Bay Cities Water Company you now hold as trustee for out of the State owners, whose interests you are attempting to harm by your attacks upon the properties represented by their shares?

Your answer to the above queries may have little or nothing to do with the merit of the Bay Cities proposition, but as a psychological study I think it would be simply great.

In concluding my remarks I have a parting word to address

TO THE PEOPLE OF OAKLAND.

You have for years been struggling to procure for yourself a municipal water system. You have for years felt the need of this important facility to your upward movement as a municipality in the scale of cities of the United States. With more than forty out of fifty of the largest cities of the United States owning their water systems, municipal water works is not an experiment. Experience has shown that cheap, pure water is a basic essential to the growth of a city. I have no hesitancy in saying that if Berkeley, for instance, should secure a municipal service and furnish water a third cheaper than Oakland is doing, many of the productive enterprises which would otherwise come to Oakland, would center there. With Oakland having abundance of water at a quarter less rate than now, the rate decreasing annually, many of the important manufacturing enterprises of the bay region would be done chiefly in Oakland.

You have now an opportunity to procure a municipal plant. It happens that our company is organized for the very purpose of furnishing you with such a plant. Foreseeing your necessities for some years we shaped our matters to be able to give the best proposition possible to be made by any seller of a plant, and we spared no expense to that end. We have the best water that is about the bay, water equal in quality to any in the State, and we have vast quantities of it; we have enough water to supply all the population of the Bay Country for the present and for many years to come. The quantity we are selling to Oakland is but a very small part of the properties we possess.

To get this municipal water plant has been a political endeavor with you for a long time. Each time the question has appeared in your politics, it has been defeated; you all know by whom. The plan has always been to never allow the question to come before the people. The people, however, are stronger than any corporation, and finally they elected a Mayor and City Council who would do their will. These officials sought propositions in all directions for supplying the city with water and investigated all the tenders made. They repeatedly solicited the existing company to make a tender, but it as persistently refused. Finally the Council selected the two best propositions offered, and submitted them to you for your consideration. You voted favorably upon the Bay Cities proposition, and that proposition is now before you.

The company occupying the field is fighting you with its wonted vigor. It does not intend that you shall have a municipal plant. Its stockholders and bondholders are on the

streets soliciting every acquaintance they have to vote against the bond proposition. It has a large force of paid agents who interview everyone they can induce to say a word favorable to their interests and have them sign such statements for publication. It has in its employ a number of lawyers and speakers doing campaign work in its behalf. The material they use, as I have shown in this letter are fictitious and misleading statements and misrepresentations. Not daring to deny the fixed demand of the people to have a municipal plant, they are setting up the cry that the existing plant should be purchased, and getting people to say that they are in favor of buying that plant. But that plant cannot be bought; its price is prohibitive. Throughout this entire contest that corporation has never named a figure for its plant; the Council could not get it to do so. Do you think it would accept for it the $7,000,000 on which it is now receiving from the people 7% interest, which value was fixed by the courts two years ago? Far from it; it considers the value of its plant increasing annually by a large sum, and the Hart decision was two years ago. The corporation would want much more now than it was given then. Defeat these bonds and the price asked would be very much higher than even the price it would fix now. That sum will always be such as the people will never consent to give. It therefore rests with you, the voters of Oakland, not to let pass this opportunity, which once lost may never occur again, to vote yourself free of the conditions which you yourselves declare are intolerable.

OAKLAND NOW CONFRONTING A WATER FAMINE.

Oakland has exhausted her present supply of water. She is confronting a water famine. She must have additional water from some source. The city is practically without fire protection. As a relief Councilman Howard proposes constructing a salt water plant for fire purposes to cost $65,413.

With the Bay Cities municipal plant constructed there would be plenty of water for fire purposes, and all else, and this expenditure would be unnecessary. Even the relief that Mr. Howard's salt water plant would give would not long suffice. *Oakland must have more water for domestic use than she is now getting.* This only the proposed municipal plant can give. The putting in of the municipal plant with the Bay Cities supply is *an absolute necessity for Oakland.*

Very truly,

BAY CITIES WATER COMPANY,

By W. S. TEVIS, *President.*

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